

Agenda Item Form

Agenda Date: 8/3/04

Districts Affected: 3

Dept. Head/Contact Information: Patrick T. Abeln, Director of Aviation-780-4724

Type of Agenda Item:

- | | | |
|---|---|--|
| <input checked="" type="checkbox"/> Resolution | <input type="checkbox"/> Staffing Table Changes | <input type="checkbox"/> Board Appointments |
| <input type="checkbox"/> Tax Installment Agreements | <input type="checkbox"/> Tax Refunds | <input type="checkbox"/> Donations |
| <input type="checkbox"/> RFP/ BID/ Best Value Procurement | <input type="checkbox"/> Budget Transfer | <input type="checkbox"/> Item Placed by Citizen |
| <input type="checkbox"/> Application for Facility Use | <input type="checkbox"/> Bldg. Permits/Inspection | <input type="checkbox"/> Introduction of Ordinance |
| <input type="checkbox"/> Interlocal Agreements | <input type="checkbox"/> Contract/Lease Agreement | <input type="checkbox"/> Grant Application |
| <input checked="" type="checkbox"/> Other Agreement | | |

Funding Source:

- ☐ General Fund
- ☐ Grant (duration of funds: _____ Months)
- ☐ Other Source: _____

Legal:

- ☒ Legal Review Required Attorney Assigned (please scroll down): Sylvia Firth ☒ Approved ☐ Denied

Timeline Priority: ☒ High ☐ Medium ☐ Low # of days: _____

Why is this item necessary:

Agreement for the Airport to receive refund of overpaid Federal excise taxes for tax year 2002 in the amount of \$9,889.00

Explain Costs, including ongoing maintenance and operating expenditures, or Cost Savings:

N/A

Statutory or Citizen Concerns:

NONE

Departmental Concerns:

NONE

ITEM: That the Mayor be authorized to sign an Agreement between the City of El Paso and Transmountain Oil Company, L.C. for the transfer and receipt of the Internal Revenue Service refund for the 2002 Claim of overpaid Federal Excise Taxes in the amount of \$9,880.00.

TO: Mayor Joe Wardy
Jim Martinez, CAO
City Council Representatives

FROM: Patrick T. Abeln, A. A. E.
Director of Aviation

DATE: July 29, 2004

SUBJECT: Agreement between the City and Transmountain Oil Company, L.C.
Regarding Claim for overpaid 2002 Federal Excise Taxes
8-3-04 CONSENT AGENDA ITEM #_____

BACKGROUND:

The Department of Aviation purchases fuel from the Transmountain Oil Company and is routinely charged an assortment of taxes in connection with these purchases. Although the Department paid these amounts as invoiced, we questioned the validity of some of the taxes being charged.

ANALYSIS:

After consultation with representatives from the State of Texas, the vendor (Transmountain Oil), and the City's equipment maintenance division it was agreed that the Department of Aviation as a department of the City was, in fact, exempt from a portion of these taxes. The total amount that is now considered as an overpayment for the year 2002 is \$9,889.00 and, in order to receive a refund of this amount, the Department must request same through the vendor of the fuel. This agreement represents that claim for a refund of these taxes. We are also reviewing the potential for possible refunds for the years 2003 and 2004.

RECOMMENDATION:

The Department of Aviation recommends approval of this agreement and has submitted this item for your approval on the City Council agenda of August 3, 2004.

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

THAT the Mayor be authorized to sign an Agreement between the City of El Paso and Transmountain Oil Company, L.C. for the transfer and receipt of the Internal Revenue Service refund for the 2002 Claim of overpaid Federal Excise Taxes in the amount of \$9,889.00.

PASSED AND APPROVED this 3rd day of August 2004.

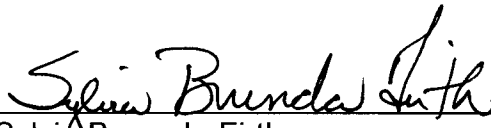
CITY OF EL PASO

Joe Wardy
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Sylvia Borunda Firth
Assistant City Attorney

AGREEMENT

This Agreement is made this 3rd day of August 2004 by and between Transmountain Oil Company, L.C. ("Company") and the City of El Paso, Texas ("El Paso").

WHEREAS, El Paso has requested Company to file on its behalf a claim for refund of overpaid Federal excise tax for tax year 2002 in the amount of \$9,889.00 (the "2002 Claim");

WHEREAS, Company is taxed for federal income tax purposes as a partnership and as such was required to allocate the claim to one of its members, QRI, Inc. ("Member"), in order to file the 2002 Claim;

WHEREAS, Member has received from the Internal Revenue Service ("IRS") the 2002 Claim and has forwarded same to Company; and

WHEREAS, Company desires to transfer and El Paso desires to receive the funds referenced above.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:


1. El Paso hereby (i) releases Company from any and all liability associated with the 2002 Claim and (ii) agrees to pay for any reasonable costs (not to exceed \$5,000 without the express written consent of El Paso) that are incurred by Member and/or Company in connection with the 2002 Claim, including, but not limited to, attorney's fees, accounting fees, filing fees, copying fees, postage fees, and telephone fees (at this time no expenses or fees have been incurred for which Company will seek reimbursement). El Paso agrees to return all or a portion of the amounts received, together with any applicable accrued interest, in connection with the 2002 Claim to Company in the event Company and/or Member is required to return the same to the IRS.

2. Company agrees, subject to and conditioned upon El Paso's agreement with paragraph 1, to transfer the 2002 Claim to El Paso.

In Witness Whereof, the parties hereto execute this Agreement as of the date set forth above.

TRANSMOUNTAIN OIL COMPANY,

L.C.


Terence D. Calhoun
Vice President

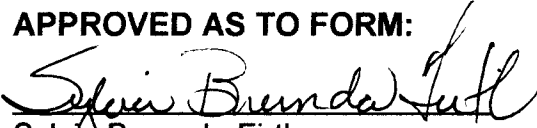
THE CITY OF EL PASO

Joe Wardy
Mayor

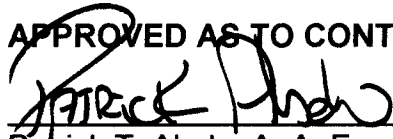
ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:


Sylvia Borunda Firth
Assistant City Attorney

APPROVED AS TO CONTENT:


Patrick T. Abeln, A. A. E.
Director of Aviation